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C O N F I D E N T I A L SECTION 01 OF 02 ABIDJAN 000225

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E.O. 12958: DECL: 02/27/2017

TAGS: ECON PGOV IV

SUBJECT: \$190 MILLION SETTLEMENT BY TRAFIGURA OF TOXIC WASTE SCANDAL PROVOKES OUTCRY, SHOWS PRESIDENT FIRMLY IN CHARGE

REF: ABIDJAN 174

Classified By: EconChief EMassinga, Reasons 1.4. (b, d)

¶1. (SBU) Summary. The widely-reported February 13 "amicable" settlement of \$190 million between the government of Cote d'Ivoire and the Dutch-based oil trading firm Trafigura to end current and future litigation and criminal proceedings against the firm and its subsidiaries continues to reverberate here and generate substantial criticism from most of the political spectrum. The deal, seen as a payoff of or extortion by government officials who approved the dumping in the first place, freed two French executives who had been incarcerated since September. The President has shrugged off ongoing condemnation of the accord, which shows above all else that he maintains a firm grip on the levers of power, and has decisively marginalized Prime Minister Banny. Banny, according a member of his inner circle, is outraged over the accord. End Summary.

¶2. (SBU) The publicly-released February 13 accord signed by key Presidential aide Desire Tagro and representatives from Trafigura and its subsidiaries (most prominent among them Puma, the Ivorian company set up in the summer of 2006 that was most directly implicated in the infamous toxic waste scandal) relieves Trafigura of all legal claims the government of Cote d'Ivoire may pursue against the company, civil and criminal. Of the \$190 million, \$146 million is ostensibly designated by the agreement to go the State of Cote d'Ivoire as well as damages to the victims. \$44 million is supposed to be used to reimburse Tredi, the French company hastily selected by the Prime Minister's office to coordinate the toxic waste cleanup and removal. Additionally, Cote d'Ivoire will build a household waste facility in the Abidjan area, which will be subsidized by a Trafigura payment of \$10 million upon the plant's completion. The State of Cote d'Ivoire, for its part, agreed to "take care of any claim concerning the Events," "take every appropriate measure aimed at ensuring the victims of the Events are compensated," and most importantly, agrees to "definitively give up any present or future pursuit, claim, action, legal proceeding that it might take against Trafigura Parties should these pursuits, claims, actions or legal proceedings have or are likely to have a direct or indirect bearing on the cause, the consequence or purpose of the Events."

¶3. (C) The protocol (for which Tagro flew in from direct dialogue talks in Ouagadougou to sign) requires all of the money, including that designated for Tredi, be paid to an account at a private bank to be controlled by the Government of Cote d'Ivoire. While the Ministry of Finance controls the disposition of the settlement funds, a senior official there indicated to an EmbOff that "the disposition of the funds has not yet been determined." EmbOff also contacted a representative from Tredi, who indicated that the question of payment for services rendered is still "under discussion."

¶4. (SBU) The Prime Minister's office, which was the focal point for the government's initial response to the disaster, was notably excluded from the negotiations. Safiatou Ba N'Daw, the PM's Chair of the Operational Coordinating Committee for the National Plan for Fighting Toxic Wastes, set up as the tragedy was unfolding to coordinate the efforts of various ministries, publicly announced she had been unaware of the deal, and swiftly denounced it as a "travesty of justice." Ba N'Daw discussed the case with EmbOff on the very day a lengthy, critical article in Soir Info (a generally sensationalist independent daily) quoted unnamed sources close to the President alleging she pocketed \$6 million in administrative funds. She spun a tale implicating the President in an attempt to silence her, alleging the Presidency's collusion with Trafigura and hinting that former Trafigura CEO Marc Rich maintains some role in the company and the present matter. Specifically, Ba N'Daw said her offices in the Prime Minister's compound were bugged and that veiled threats against her life had been made by people close to the President should she continue to speak out. She said the President's deal with Trafigura was illegal and unconstitutional, and that the Prime Minister was so outraged he refuses to read it. She dismissed the accord as woefully insufficient, saying the total would not cover soil treatment and removal costs.

¶5. (SBU) The chorus of criticism extended the full range of the political spectrum. Papers close to the opposition termed the deal "an attempt to buy immunity" (24 Heures), "a revolting action of corruption" (PDCI-affiliated Nouveau Reveil), and a "shameful accord" (RDR-aligned Le Patriote). Civil society groups joined the critique. LIDHO, a prominent human rights group, said the deal undercuts the State's pursuit of \$1 billion (Note: the Ministry of Justice, in

ABIDJAN 00000225 002 OF 002

charge of the legal case prior to the Presidentially-negotiated deal, is effectively associated with the Forces Nouvelles, and represented the NF in recent Ouagadougou talks on identification. End Note). Another human rights group, MIDH, said the deal was a "reward for those people who killed Ivorians." Victims' groups spokesmen also slammed the accord, saying the government had not consulted them; UK-based law firm Leigh Day, representing victims' groups, said that they intend to pursue civil action, setting up a potential legal clash given the government of Cote d'Ivoire's agreement to "take care of any claims concerning the Events." The political opposition did not spare the government: Alassane Ouattara, leader of the RDR, condemned "this intrusion by the Head of State in the investigation of this case" and "regards this agreement as a new act of contempt for the victims." The PDCI said the accord was "a mockery and offensive." The case continues to draw attention: one paper declared that the Gbagbo-controlled state TV channel was banned from covering the case (which RTI executives contacted by LES staff said was untrue but reaffirmed by Ba N'Daw to EmbOff) and another paper alleged that a secret addendum to the accord calls for Trafigura to maintain the Presidential Grumman jet.

¶5. (C) Comment. The settlement of the toxic waste scandal remains broadly unpopular. It smacks of another payoff to government officials who approved (explicitly or tacitly) the dumping in the first place or extortion by these same officials, who were effectively holding the Trafigura executives for ransom. It is altogether likely President Gbagbo knew ahead of time the agreement would generate bad press, but chose to proceed knowing that PM Banny and other political actors were powerless to impede him. This case, as that of the recent reinstatement of a Gbagbo crony atop the national postal system and the reinstatement of high customs and port officials implicated by the Prime Minister's commission of inquiry examining the toxic waste case, shows decisively the President is boss. Few believe much of the money will ever go to the victims of this scandal. End Comment.

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